IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 8099 of 2007(L)

PETITIONER:

DR.C.LEKHA RANI,W/O.M.JAYASANKAR, PRINCIPAL INVESTIGATOR,PROJCECT ENTITLED BREEDING FOR NOVEL VARIETIES OF ORCHIDS,KERALA STATE COUNCIL FOR SCIENCE AND TECHNOLOGY AND ENVIRONMENT THIRUVANANTHAPURAM (ASSISTANT PROFESSOR,COLLEGE OF AG.DEPT.OF PLANT BREEDING & GENETICS,TRIVANDRUM.

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENTS:

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1. THE KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA,MANNUTHY,THRISSUR,REPRESENTED BY ITS REGISTRAR.

2. THE VICE-CHANCELLOR,KERALA AGRICULTURAL UNIVERSITY, VELLANIKKARA,MANNUTHY,THRISSUR,REPRESENTED BY ITS REGISTRAR.

3. THE REGISTRAR,KERALA AGRICULUTURAL UNIVERSITY,VELLANIKKARA,MANNUTHY,THRISSUR, REPRESENTED BY ITS REGISTRAR.

4. THE DEAN,COLLEGE OF AGRICULTURE, VELLAYANI,THIRUVANANTHAPURAM.

5. THE KERALA STATE COUNCIL FOR SCIENCE & ENVIRONMENT,SASHTRA BHAVAN,PATTOM, THIRUVANANTHAPURAM,REPRESENTED BY ITS SCIENTIFIC OFFICER.

BY ADV. SHRI RENJITH THAMPAN, SC, KAU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 8099 OF 2007 L

Dated this the 13th March, 2007

JUDGMENT

Petitioner challenges Ext.P4 in so far as it relates to petitioner and seeks a direction to permit her to continue in the Department of Plant Breeding & Genetics, College of Agriculture, Vellayani, Thiruvananthapuram. Ext.P4 is the order dated 4.12.2006 by which the petitioner is seen transferred and posted at the College of Agriculture, Padannakkad with immediate effect. Case of the petitioner, in brief, is as follows:

She is an Assistant Professor (Senior Scale) in the Department of Plant Breeding & Genetics, College of Agriculture, Vellayani, Thiruvananthapuram and she is the Principal Investigator of an externally aided project, namely Breeding for novel varieties in Monopodial Orchids funded by the Kerala State Council for Science, Technology and Environment. It is stated that the period of the project is three years, i.e. 2005 - 2008 and the fund outlay of the project is

Rs.8.437 Lakhs. Petitioner relies on Ext.P1 guidelines. Clause 20 therein provides that Scientific staff (Principal Investigators only) who are instrumental in getting large externally aided schemes shall get protection from transfers for the period of the project if they so desire, and that the scheme having an outlay or at least five lakhs for three years shall be treated as large schemes for this purpose. (No doubt, Clause 23 provides that notwithstanding anything contained in the norms, the University can make transfers on public interest, and however, the public interest may be specified.)

2. According to petitioner, it is in violation of Clause 20 that Ext.P4 is issued, and the petitioner has preferred Ext.P5 representation. Ext.P6 is a covering letter sent by fourth respondent, wherein request is made to retain the petitioner in the College of Agriculture, Vellayani, considering the project in which the petitioner was working. Petitioner also relies on Ext.P7 letter. Petitioner has approached this Court apprehending implementation of Ext.P4.

3. A Statement has been filed on behalf of the first respondent, University. It is stated that the College of Engineering, Padannakkad has got a total staff strength of 63 teachers. It is situated in Kasaragod District. At present, the actual staff working in the said College is only 23. Because of the acute shortage of staff, there is huge difficulty in properly conducting the College. There is demand from Student Organisations to appoint teachers. It is stated that petitioner is one of the junior-most hand working in the College of Agriculture, Vellayani and is having the least outstanding service in the entire College. She has been working in the said College for more than fifteen years continuously and it is considering all these, that Ext.P4 was issued. It is stated that there are at least four teachers have been transferred on the same date. It is also stated that almost all teaching staff in the University are associated with one or the other project. Apart from that, there are Co-investigators in the same project. It is further stated that the University is also willing to adjust the

workload of the petitioner, so that she can have at least a week at the College of Agriculture, Vellayani every month. Reliance is placed on Clause 23 of the transfer norms and it is stated that if the University is satisfied that the project of the petitioner could not be effectively proceeded with, the University will consider the same at the time of general transfer, which will come into effect in the month of May.

4. Petitioner has thereafter filed IA No.3888/07 wherein, it is, inter alia, stated that several Professors are continuing without any project, who could be transferred to Padannakkad. It is stated that the project will have to be looked after daily, and the suggestion made by counsel for the University that eight hours working alone is to be deputed for the project, is not feasible.

5. Heard Shri N. N. Sugunapalan, learned senior counsel appearing for the petitioner, and Shri Renjith Thampan, learned standing counsel appearing for the respondent University. Learned standing counsel would project the imperative need for

filling up the vacancies in the teaching faculty for which the petitioner was appointed in the first place. Large number of vacancies are there in the College, it is pointed out, and he would further submit that the case of the petitioner will be looked into at the time of general transfer. He would further suggest that it will be open to the petitioner for shifting of the project itself to the place to which she is transferred, and the University will support the petitioner in the said endeavour.

6. Having heard the counsel appearing for the parties, I feel that Ext.P4 need not be interfered with by this Court. It is true that Clause 20 provides for protection in respect of Principal Invigilator of the project. But, it is subject to Clause 23, which is an over-riding clause. In matters of transfer, it is settled that this Court under Article 226 is not to interfere except in a case where there is violation of any statutory provision or where there is malafides established. I do not think that the petitioner has established either. However, at the same time, while rejecting the claim of the petitioner in these proceedings, I

make it clear that it will be open to the petitioner to approach the Vice Chancellor with a representation, and the Vice Chancellor will look into the matter, taking note of all relevant aspects, including Clause 20 of Ext.P1 guidelines. Accordingly, if the petitioner prefers a representation, a decision will be taken by the Vice Chancellor of the respondent University in accordance with law, within a period of one month from the date of receipt of the representation.

Subject to the above, the Writ Petition stands dismissed.

K. M. JOSEPH, JUDGE

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